

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

WINDSOR SURRY COMPANY,

Plaintiff,

v.

Case No. 3:10-cv-00139-HEH

MILL DIRECT SALES, INC.,

and

GORDON MELVIN,

Defendants.

**DEFENDANTS' MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM**

Defendants, Gordon Melvin ("Melvin") and Mill Direct Sales, Inc. ("Mill Direct"), by counsel, have removed this case from the Circuit Court for the County of Surry, Virginia, and now move pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss the Complaint against them for failure to state a claim upon which relief may be granted as to all counts for Melvin and as to Count II for Mill Direct. For the reasons set forth in the accompanying Memorandum, the Motion should be granted.

Respectfully submitted on March 15, 2010.

GORDON MELVIN and MILL DIRECT SALES,
INC.

/s/ Laura M. Grimes

BY:

Of Counsel

David N. Ventker

Virginia Bar No. 29983

Laura M. Grimes

Virginia Bar No. 75998

VENTKER & WARMAN, PLLC

101 West Main Street, Suite 810

Norfolk, VA 23510

Telephone: 757.625.1192

Facsimile: 757.625.1475

lgrimes@ventkerlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2010, a copy of the foregoing was served via facsimile and first class mail on:

James C. Cosby, Esq.
Michelle V. Wycinsky, Esq.
VANDEVENTER BLACK, LP
707 East Main St., Ste 1700
PO Box 1558
Richmond, VA 23218
*Attorney for Plaintiff, Windsor
Surry Mill Company*

/s/ Laura M. Grimes

David N. Ventker

Virginia Bar No.: 75998

VENTKER & WARMAN, PLLC

101 West Main Street, Suite 810

Norfolk, VA 23510

Telephone: 757.625.1192

Facsimile: 757.625.1475

lgrimes@ventkerlaw.com